FILED

08 MAR -4 PM 12: 16

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

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Barbara J. Mandell, Esq. (State Bar No. 106523)
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Attorneys for Plaintiffs EVANSTON INSURANCE CO. and MARKEL SHAND, INC.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

EVANSTON INSURANCE CO., an Illinois corporation; MARKEL SHAND, INC., an Illinois corporation, Plaintiffs, vs. BYRON & EDWARDS, APC; BYRON EDWARDS MOSTOFI, APC; MICHAEL M. EDWARDS, ESQ., an individual; THOMAS W. BYRON, ESQ., an individual; and DOES 1-50, inclusive, Defendants.	Case No.: '08 CV 407 BTM LSP **COMPLAINT FOR:** **1. LEGAL MALPRACTICE; AND** **2. BREACH OF FIDUCIARY DUTY**

COME NOW, PLAINTIFFS, EVANSTON INSURANCE CO., an Illinois corporation, and MARKEL SHAND, INC., an Illinois corporation, and hereby allege as follows:

THE PARTIES

1. Plaintiff, EVANSTON INSURANCE CO. ("EVANSTON") is and

was at all times relevant an Illinois domiciled Property and Casualty Insurer, and an eligible surplus lines carrier in the State of California, with its principal place of business in Deerfield, Illinois.

2. Plaintiff MARKEL SHAND, INC. formerly known as SHAND MORAHAN & COMPANY, INC. ("SHAND") is and was at all times relevant an Illinois Corporation and the underwriting manager and claims representative for EVANSTON, with its principal place of business in Deerfield, Illinois.

3. SHAND and EVANSTON are hereinafter collectively referred to as "PLAINTIFFS" unless otherwise specifically indicated.

4. PLAINTIFFS are informed and believe and on that basis allege that Defendant BYRON & EDWARDS, APC, ("B & E") is and was at all times relevant a law firm and a California Professional Corporation authorized to transact business in the State of California, with its principal place of business in San Diego, California.

5. PLAINTIFFS are informed and believe and on that basis allege that Defendant BYRON EDWARDS MOSTOFI, APC, ("BEM") is and was at all times relevant a law firm, and a California Professional Corporation authorized to transact business in the State of California, with its principal place of business in San Diego, California.

6. PLAINTIFFS are informed and believe and on that basis allege that Defendant MICHAEL M. EDWARDS, ESQ. ("EDWARDS") is and was at all time relevant an individual and attorney licensed to practice law in the State of California, and a partner and shareholder of B & E, and BEM in San Diego, California.

7. PLAINTIFFS are informed and believe and on that basis allege that Defendant THOMAS W. BYRON, ESQ. ("BYRON") is and was at all time relevant an individual and attorney licensed to practice law in the State of California, and a partner and shareholder of B & E, and BEM in San Diego,

California.

8. PLAINTIFFS are informed and believe and on that basis allege that Defendants DOES 1 through 50, inclusive, are individuals, partnerships, corporations and/or other entities who are legally responsible in some manner for the facts and circumstances referred to herein, and therefore liable to PLAINTIFFS in some manner for the injuries and damages suffered by PLAINTIFFS. PLAINTIFFS are ignorant of the true names, identities and capacities of the Defendants designated as DOES herein at this time, and therefore sue these Defendants by such fictitious names. PLAINTIFFS will seek leave to amend this Complaint to identify the true name of these Defendants when this information becomes known to PLAINTIFFS.

9. PLAINTIFFS are informed, believe and based thereon allege, that at all relevant times herein, Defendants, and each of them, were the agent, representative, partner, associate and/or employee of each of the other Defendants, and that at all times they were each acting within the course, purpose and scope of their agency, representation, partnership and/or employment with the authority, permission and consent of each of the other Defendants.

JURISDCITION and VENUE

10. Venue in this matter is properly based on diversity jurisdiction pursuant to 28 U.S.C. §1332. Plaintiffs EVANSTON and SHAND are corporations whose principal places of business are in Illinois. Defendants EDWARDS and BYRON are citizens of California and Defendants BEM and B & E are professional corporations whose principal places of business are in California. The amount in controversy, without interest and costs, exceeds the sum or value specified by 28 U.S.C. §1332.

FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

11. On or about April 1, 2005, EVANSTON issued a Claims Made Architects and Engineers Professional Liability policy No. AE-809633 to Summit Consulting & Architecture, Inc. ("Summit") which provided professional liability coverage to Summit, pursuant to all of its terms and provisions, including a April 1, 2001 retroactive date, and California law. ("Policy") The Policy provided coverage to Summit, as the named insured, and to Michael Kiss ("Kiss") an owner, officer, director, employee, and shareholder of Summit, solely while Kiss acted in the course and scope of his activities for Summit. Summit and Kiss are collectively referred to as "Insureds" unless otherwise specifically indicated.

12. On or about May 18, 2004, Joanne Rogers ("Rogers") filed a Complaint in the Superior Court of the State of California, for the County of San Diego entitled *Joanne Rogers v. Watermark Owners Association et al.*, bearing Case No. GIC830102. ("Rogers Action") On or about December 20, 2005, Rogers filed a First Amended Complaint ("FAC") adding Summit as a named defendant. On or about April 12, 2006, Rogers filed a Second Amended Complaint ("SAC") in which Summit remained a Defendant. The Rogers Action sought to recover damages as a result of a construction project at the Watermark Condominiums in which it was alleged that the Insureds worked as the project manager between December 2001 and September 2005.

13. On or about January 16, 2006, Kiss tendered the defense of the FAC in the Rogers Action to EVANSTON, on behalf of the Insureds, requesting that EVANSTON provide all the benefits and coverage to which the Insureds were entitled pursuant to the terms of the Policy. ("Tender") Upon receipt of the Tender, EVANSTON and SHAND determined that there were questions as to whether the Policy provided coverage for the Rogers Action and retained EDWARDS, who was then a partner, employee, agent and associate of BEM and/or B & E, to provide coverage advice and counsel, specifically requesting an

opinion and recommendations as to whether there was any potential for coverage to be provided to the Insureds for the FAC, pursuant to the terms and provisions of the Policy.

14. Unbeknownst to PLAINTIFFS at the time they retained EDWARDS to render an opinion as to whether there was coverage under the Policy for the Insureds in relation to the Rogers Action, EDWARDS' partner, and associate BYRON and BEM and/or B & E, were already attorneys of record in the Rogers Action, and were already representing The Szaras Companies, Inc. ("Szaras") in the Rogers Action. Because it was a co-defendant in the Rogers Action, Szaras' interests actually conflicted with the interests of the Insureds, and therefore with PLAINTIFFS' interests in determining whether there was coverage owed to the Insureds for the Rogers Action under the terms of the Policy.

15. By virtue of the fact that BYRON and EDWARDS were partners, associates, agents and employees of each other, and of BEM and B & E, they were each and every one of them retained by PLAINTIFFS to provide legal counsel and advice to PLAINTIFFS. B & E, BEM, BYRON, and EDWARDS are collectively referred to as "Defendants" unless otherwise specifically indicated.

16. PLAINTIFFS are informed and believe, and on that basis allege that Defendants understood and accepted that they were jointly and collectively retained to represent PLAINTIFFS, and that at all relevant times they each performed their duties on behalf of PLAINTIFFS in the course and scope of their retention as PLAINTIFFS' counsel.

17. Defendants accepted and continued their representation of PLAINTIFFS, agreeing to provide coverage advice to PLAINTIFFS relative to EVANSTON'S obligation to respond to the Rogers Action on behalf of the Insureds without providing any disclosure, oral or written to PLAINTIFFS that Defendants maintained a concurrent legal, professional and financial relationship with another party in the Rogers Action whose interests actually or potentially

conflicted with PLAINTIFFS' interests.

18. Defendants' acceptance and continued representation of PLAINTIFFS relative to EVANSTON'S obligation to respond to the Rogers Action on behalf of the Insureds without providing any disclosure to PLAINTIFFS that Defendants maintained a concurrent legal, professional and financial relationship with another party in the Rogers Action whose interests actually or potentially conflicted with PLAINTIFFS' interest, was in violation of California Rules of Professional Conduct ("CRPC") Rule 3-310 and the ethical, professional and fiduciary responsibilities owed to PLAINTIFFS.

19. Defendants, and each of them, in violation of CRPC Rule 3-310 and their ethical, professional and fiduciary responsibilities owed to PLAINTIFFS, accepted and continued their representation of PLAINTIFFS without providing written disclosure that Defendants had a legal, financial, and/or professional relationship with Szaras whose interests actually and/or potentially conflicted with PLAINTIFFS' interest, and the interests of the Insureds, thereby affecting PLAINTIFFS' interests.

20. On or about February 9, 2006 EDWARDS provided PLAINTIFFS with a written coverage opinion in which he concluded there was no potential coverage for the Insureds under the terms of the Policy and California law for the Rogers Action, and therefore EVANSTON owed no duty to defend the Insureds under the terms of the Policy. The coverage opinion concluded that there was no potential for coverage and no duty to defend the Insureds pursuant to a "mold exclusion" contained in the Policy, because all of the damages claimed in the Rogers Action arose out of, or involved "mold" or a "mold event" as those terms are defined in the Policy.

21. PLAINTIFFS relied on EDWARDS' unconflicted advice, proficiency and competence in rendering the Coverage Opinion and on that basis authorized

EDWARDS to proceed as he had recommended. On or about February 24, 2006, by and on behalf of PLAINTIFFS, EDWARDS disclaimed any obligation by EVANSTON to provide coverage, a defense or indemnity for the Insureds in response to the Rogers Action. ("Disclaimer")

22. On or about November 6, 2006, Kiss submitted a second request to EDWARDS requesting that PLAINTIFFS reimburse the Insureds for the costs the Insureds had incurred to defend themselves in the Rogers Action, and that PLAINTIFFS pay a settlement on Summit's behalf. ("Re-Tender") In his Re-Tender, Kiss claimed that there was coverage for the Rogers Action because he and Summit performed tasks and duties as the project manager/construction manager on the construction project at issue in the Rogers Action between 2001 and 2003 that did not involve mold, noting that the Disclaimer only referenced the Policy's mold exclusion. Kiss claimed that he was involved in tasks including the review of the structural and "fire safing" issues, removal and replacement of windows, removal and replacement of EIFS, removal and replacement of water damaged GYP board and approval of reimbursements made by the owners.

23. Kiss indicated in the Re-Tender that because of the Disclaimer he had incurred costs in defending Summit and that he was concerned about the likelihood that Summit would face a large judgment and a claim for indemnity arising out of the Rogers Action. Kiss also provided EDWARDS with a copy of a statutory demand to settle the claims brought by the PLAINTIFFS in the Rogers Action against Summit for $50,000, requesting that it be paid by PLAINTIFFS on Summit's behalf.

24. In his Re-Tender, Kiss also indicated that he was experiencing great stress and anxiety, and was anticipating the likelihood of financial ruin because of EVANSTON'S refusal to defend Summit in the Rogers Action. Finally, Kiss indicated that Scott Morgan, Rogers' expert in the Rogers Action had testified in deposition that Summit had performed negligently on matters that had nothing to

do with mold, and Kiss offered to provide EDWARDS with a copy of Mr. Morgan's deposition and related exhibits in order to substantiate his claim that there was a potential for coverage for the Insureds relative to the Rogers Action.

25. When analyzing the Re-Tender, EDWARDS did not review the entirety of the deposition of Scott Morgan, Rogers' expert in the Rogers Action whom Kiss claimed had testified in deposition that Summit performed negligently on matters that had nothing to do with mold, and instead EDWARDS expected Kiss to identify the particular portions of the deposition which created a potential for coverage under the terms and provisions of the Policy.

26. When analyzing the Re-Tender, EDWARDS did not ever review or analyze the SAC, despite the fact that it had been filed 7 months earlier.

27. When analyzing the Re-Tender EDWARDS ignored the SAC's negligence cause of action, which included the allegation that Summit had negligently fallen below the standard of care by failing to ensure that the work performed by other contractors on the job was complete and did not fall below the standard of care.

28. The Defendants were each and every one of them privy to all of the information that was available to each and every one of them in the Rogers Action, including the entirety of the written discovery and deposition transcripts that were generated in the Rogers Action. Nevertheless, after failing to disclose the actual and/or potential conflict that was created by Defendants' concurrent representation of Szaras and Plaintiffs relative to the Rogers Action, EDWARDS failed to consider or analyze such information, or communicate such information which demonstrated that there was in fact a potential for coverage and therefore a duty to defend Summit in the Rogers Action, to PLAINTIFFS.

29. On or about November 16, 2006, Summit settled the Rogers Action upon terms which included a stipulated judgment for Rogers in the sum of $730,000, a covenant not to execute against the Insureds and an assignment of

Summit's rights against EVANSTON based upon the Tender and Re-Tender and EVANSTON'S refusal to provide coverage, defense, or indemnity to the Insureds in relation to the Rogers Action. The Court subsequently found that the settlement of the Rogers Action constituted a good faith settlement pursuant to Code of Civil Procedure §877.6.

30. On November 21, 2006 EDWARDS provided PLAINTIFFS with a second coverage opinion which again concluded that there was no potential for coverage and no duty to defend the Insureds, based on his opinion that all of the damages claimed in the Rogers Action arose out of or involved "mold" or a "mold event" as those terms are defined in the Policy, notwithstanding the allegations that Summit had performed negligently on matters that had nothing to do with mold.

31. PLAINTIFFS relied on EDWARDS' unconflicted advice, proficiency and competence in rendering the second coverage opinion and on that basis authorized Defendants to proceed as they recommended. At no time prior to issuing the second coverage opinion did EDWARDS ever disclose to PLAINTIFFS that his partner, agent, associate and employee, BYRON was concurrently representing Szaras relative to the Rogers Action. At no time did the Defendants disclose to PLAINTIFFS that they had a conflict of interest as a consequence of their concurrent representation of PLAINTIFFS and Szaras.

32. On or about November 22, 2006, by and on behalf of PLAINTIFFS, EDWARDS again disclaimed any obligation by EVANSTON to provide coverage, a defense or indemnity for the Insureds in and against the Rogers Action. ("Second Disclaimer")

33. It was not until after the settlement of the Rogers Action and the issuance of the second coverage opinion that PLAINTIFFS became aware of the fact that while Defendants were representing PLAINTIFFS, and providing coverage advice to PLAINTIFFS relative to the Rogers Action, they were also representing Szaras, a defendant in the Rogers Action. Defendants only admitted

their simultaneous representation of PLAINTIFFS and Szaras after their efforts to keep this material information from PLAINTIFFS had failed, and even then, Defendants claimed that there was no conflict of interest posed by their concurrent representation of Szaras and PLAINTIFFS.

34. On or about April 13, 2007, the Insureds filed a Complaint in the Superior Court of the State of California, for the County of San Diego entitled *Summit Consulting & Architecture, Inc.; Michael Kiss v. Evanston Insurance Co.; Shand Morahan & Company, Inc.; Markel Corporation et al.*, Case No. 37-2007-00064986-CU-BC-CTL. ("Summit Action") In the Summit Action, the Insureds alleged causes of action for breach of contract, breach of the covenant of good faith and fair dealing, violation of Bus. & Prof. Code § 17200 *et. seq.*, intentional infliction of emotional distress, negligent infliction of emotional distress and declaratory relief against PLAINTIFFS based upon its processing and handling of Summit's claim for benefits under the Policy as a result of the Rogers Action.

35. In the Summit Action, the Insureds alleged that PLAINTIFFS failed to properly process and handle their Tender and Re-Tender of the Rogers Action, failed to properly conduct a prompt, full and complete investigation of the facts and circumstances giving rise to the claims asserted in the Rogers Action, improperly failed to defend and indemnify the Insureds in the Rogers Action, and improperly concluded that there was no potential for coverage for the Insureds under the terms of the Policy for the Rogers Action.

36. PLAINTFFS incurred significant costs and attorneys fees defending the Summit Action as a consequence of the acts and conduct of the Defendants as set forth herein. In or about January 2008, PLAINTIFFS settled the Summit Action for a sum which significantly exceeded the applicable Policy limit.

FIRST CAUSE OF ACTION FOR PROFESSIONAL NEGLIGENCE
(By PLAINTIFFS Against all Defendants)

37. PLAINTIFFS refer to and re-allege Paragraphs 1 through 36, inclusive above, and incorporate each and every such paragraph by reference as though fully set forth herein.

38. PLAINTIFFS and Defendants formed an attorney-client relationship in regard to the matters described herein above, when PLAINTIFFS retained EDWARDS to provide legal advice and services concerning the Rogers Action, and that in conjunction with this attorney-client relationship, EDWARDS and the Defendants owed PLAINTIFFS a legal duty of the highest order to act in PLAINTIFFS' best interests, and to observe all the applicable laws of the State of California and California Rules of Professional Conduct. By virtue of their attorney-client relationship, Defendants owed PLAINTIFFS a duty to use such skill, prudence, and diligence as members of his or her profession commonly possess and exercise in performing all duties owed to their clients, including PLAINTIFFS.

39. By their acts and omissions as described herein, Defendants breached their legal duties owed to PLAINTIFFS pursuant to the attorney-client relationship, including their fiduciary duties of loyalty, integrity and honesty of the highest character owed to PLAINTIFFS, and breached their duty to use and provide such skill, care, prudence, and diligence as members of the legal profession commonly possess and exercise in performing all duties owed to clients, including without limitation, by:

(a) Violating CRPC Rule 3-310's written disclosure requirements by failing to disclose to PLAINTIFFS that at the time PLAINTIFFS first retained EDWARDS to render coverage advice in relation to the Insureds and the Rogers Action, that his partner, associate, agent and employee, BYRON was already concurrently representing Szaras in the Rogers Action;

(b) Violating an attorney's duty to zealously protect its client's interest within the bounds of the law;

(c) Failing at any time until after the Rogers Action was settled to admit to PLAINTIFFS that during the entire time the Defendants acted as coverage counsel, advising PLAINTIFFS as to EVANSTON'S obligations to the Insureds relative to the Rogers Action, Defendants were concurrently representing Szaras in the Rogers Action;

(d) Failing to properly evaluate and analyze EVANSTON'S duty to provide coverage, defense, and indemnity to the Insureds under the terms of the Policy for the Rogers Action, by failing to properly and fully investigate all of the facts, circumstances and documents relevant to a full and complete analysis of coverage;

(e) Failing to properly evaluate and analyze EVANSTON'S duty to provide coverage, defense, and indemnity to the Insureds under the terms of the Policy for the Rogers Action, by incorrectly analyzing EVANSTON'S duty to provide coverage, a defense and indemnity, to the Insureds under the terms of the Policy for the Rogers Action;

(f) Failing to recognize and advise PLAINTIFFS that there was a potential for coverage that obligated EVANSTON to provide the Insureds with a defense in the Rogers Action because all of the claims asserted in the Rogers Action were not excluded by the Policy's mold exclusion.

(g) Failing to avoid the appearance of impropriety in their concurrent representation of PLAINTIFFS and Szaras in relation to the Rogers Action.

40. As a direct and proximate result of Defendants' breach of their legal duties owed to PLAINTIFFS, the Summit Action was filed against PLAINTIFFS, which has caused PLAINTIFFS to suffer monetary damages, including without limitation attorneys' fees and costs to defend the Summit Action and an amount significantly in excess of the Policy limits to settle the Summit Action.

SECOND CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY
(By PLAINTIFFS against all Defendants)

41. PLAINTIFFS refer to and re-allege Paragraphs 1 through 40, inclusive above, and incorporate each and every such paragraph by reference as though fully set forth herein.

42. Defendants represented PLAINTIFFS in relation to the matters described herein above, and therefore, an attorney-client relationship existed between PLAINTIFFS and Defendants giving rise to a fiduciary relationship of the very highest character.

43. BYRON and EDWARDS were at all times relevant partners, associates, agents and employees of BEM, B & E and each other, and they are therefore each and every one of them vicariously obligated to provide the same attorney-client and fiduciary duties to PLAINTIFFS.

44. Defendants owed PLAINTIFFS a fiduciary duty of the highest order necessitating that Defendants always act in the best interests of PLAINTIFFS. The fiduciary duties owed by Defendants to PLAINTIFFS include, but are not limited to the duty to maintain the highest level of loyalty, integrity and honesty in all of their dealings with PLAINTIFFS; the duty to observe and protect any and all of PLAINTIFFS' legal rights and interests, as established by the laws of the State of California and the California Rules of Professional Conduct; the duty to disclose to PLAINTIFFS any and all conflicts of interest as a result of the representation of clients whose interests actually or potentially conflict; the duty to disclose all material information relevant to a client's representation; and, the duty not to keep secret any material information relevant to a client's representation.

45. By their acts and omissions as described herein, Defendants breached their fiduciary duty of loyalty, integrity and honesty of the highest character owed to PLAINTIFFS by acts including but not limited to:

(a) Violating CRPC Rule 3-310's written disclosure requirements by failing to disclose to PLAINTIFFS that at the time PLAINTIFFS retained Defendants to render coverage advice to PLAINTIFFS relative to the Insureds and the Rogers Action while Defendants were concurrently representing Szaras, another co-defendant in the Rogers Action, whose interests actually or potentially conflicted with the Insureds' and PLAINTIFFS' interests;

(b) Expressly misleading PLAINTIFFS as to their concurrent representation of PLAINTIFFS and Szaras relative to the Rogers Action.

46. Defendants actions as alleged herein were undertaken while knowing that they were obligated to disclose their concurrent representation of PLAINTIFFS and Szaras so as to allow each of them the opportunity to determine whether to waive the actual and/or potential conflict that was created by virtue of Defendants' concurrent representation of PLAINTIFFS and Szaras. With full knowledge and awareness of their duty to disclose their actual and/or potential conflict, Defendants knowingly, intentionally and purposefully withheld such information from PLAINTIFFS, and mislead PLAINTIFFS as to the fact that they were concurrently representing PLAINTIFFS and Szaras so as to keep this material information form PLAINTIFFS for their benefit and to the detriment of PLAINTIFFS.

47. As a direct and proximate result of Defendants' breach of fiduciary duty, as alleged herein above, PLAINTIFFS have suffered monetary damages in an amount according to proof at trial but which amount exceeds this Court's minimum jurisdiction.

48. Defendants actions as alleged herein were undertaken with malice, oppression, and fraud, based on a Defendants conscious disregard for PLAINTIFFS' rights, entitling PLAINTIFFS to the recovery of punitive damages.

WHEREFORE, PLAINTIFFS pray for judgment as follows:

1. For compensatory damages according to proof at the time of trial, but

which amount exceeds this Court's minimum jurisdiction, and which include but are nor limited to the cost of defending the Summit Action and the cost of settling the Summit Action;

2. For punitive and exemplary damages;

3. For PLAINTIFFS' attorneys' fees and costs of suit incurred herein;

4. For all interest at the maximum allowable rate permitted by law; and

5. For such other and further relief as the Court deems just and proper.

DATED: March 3, 2008

MICHELMAN & ROBINSON, LLP

By:________________________
Dana Kravetz, Esq.
Barbara J. Mandell, Esq.
Attorneys for Plaintiffs EVANSTON INSURANCE COMPANY and MARKEL SHAND, INC.

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

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March 04, 2008
12:20:10

Civ Fil Non-Pris
USAO #.: 08CV0407
Judge..: BARRY T MOSKOWITZ
Amount.: $350.00 CK
Check#.: BC6973

Total-> $350.00

FROM: EVANSTON INSURANCE CO V.
BYRON AND EDWARDS

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED 08 MAR -4 VIA FAX
CLERK U.S. DISTRICT COURT, SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

I. (a) PLAINTIFFS

EVANSTON INSURANCE CO., an Illinois corporation; MARKEL SHAND, INC., an Illinois corporation,

DEFENDANTS

BYRON & EDWARDS, APC; BYRON EDWARDS MOSTOFI, APC; MICHAEL M. EDWARDS, ESQ., an individual; THOMAS W. BYRON, ESQ., an individual; and DOES 1-50, inclusive.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Lake County, Illinois
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT San Diego, CA
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Dana A. Kravetz, Esq.
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15760 Ventura Boulevard, 5th Floor
Encino, California 91436

ATTORNEYS (IF KNOWN)

'08 CV 407 BTM LSP

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

- [ ] 1 U.S. Government Plaintiff
- [ ] 3 Federal Question (U.S. Government Not a Party)
- [ ] 2 U.S. Government Defendant
- [X] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	[ ] 1	[ ] 1	Incorporated or Principal Place of Business in This State	[ ] 4	[X] 4
Citizen of Another State	[ ] 2	[ ] 2	Incorporated and Principal Place of Business in Another State	[X] 5	[ ] 5
Citizen or Subject of a Foreign Country	[ ] 3	[ ] 3	Foreign Nation	[ ] 6	[ ] 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.) Complaint for 1) Legal Malpractice; and 2) Breach of Fiduciary Duty. Statute - 28 U.S.C. 1332.

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment & Enforcement of Judgment
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability

REAL PROPERTY
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

TORTS

PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [X] 360 Other Personal Injury

PERSONAL INJURY
- [ ] 362 Personal Injury - Medical Malpractice
- [ ] 365 Personal Injury - Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

CIVIL RIGHTS
- [ ] 441 Voting
- [ ] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 444 Welfare
- [ ] 440 Other Civil Rights

PRISONER PETITIONS
- [ ] 510 Motion to Vacate Sentence

HABEAS CORPUS:
- [ ] 530 General
- [ ] 535 Death Penalty
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Conditions

FORFEITURE/PENALTY
- [ ] 610 Agriculture
- [ ] 620 Other Food & Drug
- [ ] 625 Drug Related Seizure of Property 21 USC 881
- [ ] 630 Liquor Laws
- [ ] 640 R.R. & Truck
- [ ] 650 Airline Regs.
- [ ] 660 Occupational Safety/Health
- [ ] 690 Other

LABOR
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Mgmt. Relations
- [ ] 730 Labor/Mgmt. Reporting & Disclosure Act
- [ ] 740 Railway Labor Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- [ ] 422 Appeal 28 USC 158
- [ ] 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 840 Trademark

SOCIAL SECURITY
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

FEDERAL TAX SUITS
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- [ ] 400 State Reappointment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce/ICC Rates/etc.
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced and Corrupt Organizations
- [ ] 810 Selective Service
- [ ] 850 Securities/Commodities/ Exchange
- [ ] 875 Customer Challenge 12 USC 3410
- [ ] 891 Agricultural Acts
- [ ] 892 Economic Stabilization Act
- [ ] 893 Environmental Matters
- [ ] 894 Energy Allocation Act
- [ ] 895 Freedom of Information Act
- [ ] 900 Appeal of Fee Determination Under Equal Access to Justice
- [ ] 950 Constitutionality of State Statutes
- [ ] 890 Other Statutory Actions

VI. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- [X] 1 Original Proceeding
- [ ] 2 Removal from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from another district (specify)
- [ ] 6 Multidistrict Litigation
- [ ] 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: [ ] CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND $

CHECK YES only if demanded in complaint: JURY DEMAND: [ ] YES [X] NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ______ Docket Number ______

DATE March 3, 2008 SIGNATURE OF ATTORNEY OF RECORD [signature]

::ODMA\PCDOCS\WORDPERFECT\22816\1 January 24, 2000 (3:10pm)

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